

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CARLOS MERCADO LOPEZ,

Petitioner,

v.

CHRISTINE VERDINI,

Respondent.

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Civil Action No. 12-12231-IT

ORDER DENYING MOTION TO PROCEED ON APPEAL IN FORMA PAUPERIS

TALWANI, D.J.

By Order dated December 17, 2014, the First Circuit transmitted to this Court Carlos Mercado Lopez's motion to proceed on appeal *in forma pauperis*. See Docket No. 40.

Generally, a party who was permitted to proceed *in forma pauperis* in the district-court action may proceed on appeal *in forma pauperis* without further authorization. Fed. R. App. P. 24(a)(3). Here, petitioner initially filed his petition for writ of habeas corpus under 28 U.S.C. § 2254 without payment of the \$5.00 filing fee. See Docket. This court issued a Procedural Order directing petitioner to either pay the \$5 fee or file an Application to Proceed in District Court Without Prepaying Fees or Costs. *Id.* In response, petitioner paid the \$5.00 filing fee and filed a motion to proceed *in forma pauperis*. See Docket. By Electronic Order dated March 14, 2013, the court denied petitioner's motion to proceed *in forma pauperis* as moot because the filing fee had already been paid. See Docket No. 15. Accordingly, because the court did not grant petitioner's application to proceed *in forma pauperis* in the district-court action, he may not proceed on appeal *in forma pauperis* without further authorization.

Except as stated under Rule 24(a)(3), a party seeking to proceed *in forma pauperis* on appeal must file a motion with the district court, including an affidavit showing the party's inability to pay, claiming an entitlement to redress, and stating the issues that the party intends to present on appeal. Fed. R. App. P. 24(a)(1)(A)-(C).

In support of his motion to proceed on appeal *in forma pauperis*, petitioner submitted a copy of his prison account statement. Upon review of petitioner's financial disclosures, he has made an adequate showing of indigency. He has not, however, provided a statement of the issues on appeal as required by Rule 24(a)(1)(C).

Accordingly,

It is hereby ORDERED that petitioner's motion to proceed on appeal *in forma pauperis* is DENIED. Further requests to proceed on appeal *in forma pauperis* should be directed on motion to the United States Court of Appeals for the First Circuit in accordance with Rule 24(a)(5) of the Federal Rules of Appellate Procedure. The Clerk shall transmit a copy of this Order as a supplemental record to United States Court of Appeals for the First Circuit.

So ordered.

/s/ Indira Talwani
United States District Judge

Dated: February 12, 2015